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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAYMON JOHNSON,

Plaintiff,

v.

STEVE WATKIN, et al.,

Defendants.

Case No. 1:23-cv-00848-ADA-CDB

Date: NA

Time: NA

Dept: NA

Judge: Hon. Christopher D. Baker

Trial Date: Not Scheduled

Action filed: June 1, 2023

NOTICE OF SUPPLEMENTAL AUTHORITY

In opposing Plaintiff's motion for a preliminary injunction, Defendant Christian relied on *Alpha Delta Chi-Delta Chapter v. Reed*, 648 F.3d 790 (9th Cir. 2011), for the proposition that regulations do not offend the First Amendment if they are intended to address invidious discrimination. "[T]he regulations Johnson challenges do not 'target speech or discriminate on the basis of its content,' but instead seek to 'remove access barriers imposed against groups that have historically been excluded.'" Doc. 42 at 14 (quoting *Alpha Delta Chi*, 648 F.3d at 801).

On September 13, 2023, the Ninth Circuit overruled *Alpha Delta Chi*, holding that the case's Free Speech Clause holding (like its Free Exercise Clause holding) has been "abrogated by more recent Supreme Court authority," and "is no longer good law." *Fellowship of Christian Athletes v.*

1 *San Jose Unified Sch. Dist. Bd. of Educ.*, No. 22-15827, __ F.4th __, 2023 U.S. App. LEXIS 24260,
2 at *48 n.8 (9th Cir. Sept. 13, 2023) (en banc) (citing *Reed v. Town of Gilbert*, 576 U.S. 155 (2015)).

3 Dated: September 18, 2023

Respectfully submitted.

4 By: /s/ Alan Gura

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11 CERTIFICATE OF SERVICE

12 I hereby certify that on September 18, 2023, I electronically filed the foregoing with the
13 Clerk using the Court's CM/ECF system, and that all participants in this case are registered
14 CM/ECF users who have thereby been electronically served.

15 I declare under penalty of perjury that the foregoing is true and correct.

16 Executed on September 18, 2023.

17 /s/ Alan Gura

18 Alan Gura